National Labor Relations Board



Division of Information

Weekly Summary of NLRB Cases

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Miscellaneous Board Decisions and Orders

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Hercules Drawn Steel Corp. (7-CA-48573, et al.; 352 NLRB No. 10) Livonia, MI Feb. 7, 2008. The Board affirmed the administrative law judge's findings that the Respondent violated Section 8(a)(1) of the Act by engaging in surveillance. The Board also affirmed that the Respondent did not violate Section 8(a)(1) by: threatening its employees that if the Union ever goes on strike, employees would never again see the inside of the shop; threatening to fire any millwright who gave a statement in support of an employee grievance; threatening employees with job loss if they did not accept the Respondent's contract proposal; telling an employee that it would not recall certain employees, or that recalled employees who refused to return to work would be terminated; and stating in a letter that employees who refused to return to work after being recalled could be permanently replaced. Additionally, the Board affirmed that the Respondent did not violate Section 8(a)(5) by engaging in direct dealing or by presenting a regressive contract proposal. [HTML] [PDF]

Further, the Board affirmed that the Respondent did not violate Section 8(a)(3) by: assigning clean-up duties to employee L. Lewis; locking out its employees; and partially recalling its skilled employees. In affirming that the Respondent did not violate Section 8(a)(3) by locking out or partially recalling its employees, the Board found that the Respondent showed that it could not maintain production during the lockout without these specific employees to operate its machinery, and thus, clearly established a legitimate and substantial business justification. See *Bali Blinds Midwest*, 292 NLRB 243, 246-247 (1988).

(Members Liebman and Schaumber participated.)

Charges filed by Auto Workers Local 174; complaint alleged violations of Sections 8(a)(1), (3), and (5). Hearing at Detroit, May 15-18 and June 21, 2006. Adm. Law Judge George Alemán issued his decision on Dec. 8, 2006.

Laborers Local 169 (32-CB-5976; 352 NLRB No. 8) Reno, NV Feb. 6, 2008. The Board adopted the administrative law judge's finding that the Respondent Union violated Section 8(b)(3) of the Act by refusing to meet and bargain with the Employer for a new agreement upon its certification as the 9(a) representative of the Employer's employees. [HTML] [PDF]

(Members Liebman and Schaumber participated.)

Charge filed by Frehner Construction Co., Inc.; complaint alleged violation of Section 8(b)(3). Hearing at Reno, May 17 - 18, 2006. Adm. Law Judge Burton Litvack issued his decision Nov. 16, 2006.

Windstream Corp. (6-CA-35290; 352 NLRB No. 9) Little Rock, AR Feb. 7, 2008. The Board affirmed the administrative law judge's finding that the Respondent violated Section 8(a)(5) and (1) of the Act by unilaterally implementing a zero tolerance disciplinary policy for violations of its ethics and integrity rules. In doing so, the Board also affirmed the judge's finding that the allegation was not appropriate for deferral to arbitration pursuant to Collyer Insulated Wire, 192 NLRB 837 (1971), and its progeny. [HTML] [PDF]

The Respondent distributed an email to bargaining unit members indicating that an employee found to have violated one of the Respondent's ethics rules would be automatically terminated. The Board affirmed the judge's finding that the Respondent violated Section 8(a)(5) and (1) by making a material and substantial change in employees' conditions of employment unilaterally during the term of a collective-bargaining agreement.

In declining to defer the allegation that the Respondent unilaterally implemented a "zero tolerance" policy in violation of the Act to arbitration, the Board found that the Respondent failed to request deferral on an inextricably related direct dealing allegation covering the same subject matter. Accordingly, the Board concluded that deferral of one aspect of the parties' dispute to the grievance-arbitration machinery would be inappropriate.

(Members Liebman and Schaumber participated.)

Charges filed by Electrical Workers IBEW on behalf of its affiliated Locals 463, 1189, 1507, 1929, 2089, and 2374; complaint alleged violations of Section 8(a)(5) and (1). Hearing at Pittsburgh on Feb. 1, 2007. Adm. Law Judge Michael A. Marcionese issued his decision April 9, 2007.

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

Eichorn Motors, Inc. (UAW) Grand Rapids, MN Feb. 5, 2008. 18-CA-18226, et al.; JD-05-08, Judge John T. Clark.

Walgreen Co. (Food & Commercial Workers Local 1500) Oceanside, NY Feb. 6, 2008. 29-CA-28345; JD(NY)-02-08, Judge Steven Davis.

OnPoint Consulting, Inc. (an Individual) Washington, DC Feb. 7, 2008. 5-CA-32978; JD-06-08, Judge C. Richard Miserendino.

Grapetree Shores, Inc. d/b/a Divi Carina Bay Resort (Virgin Islands Workers) St. Croix, VI Feb. 8, 2008. 24-CA-10700, 24-RC-8566; JD-07-08, Judge Paul Bogas.

NYP Holdings, Inc. d/b/a The New York Post Bronx, NY Feb. 8, 2008. 2-CA-38209; JD-(NY)-03-08, Judge Raymond P. Green.

NO ANSWER TO AMENDED COMPLIANCE SPECIFICATION

(In the following case, the Board granted General Counsel's motion for summary judgment in part based on the Respondent's failure to file an answer to the amended specification)

Proper Steel Erectors, Inc. and its alter ego B & M Steel Erectors, Inc. (Iron Workers Upstate New York and Vicinity Locals 60, 33, 9, 440, 6 and 12) (3-CA-24700; 352 NLRB No. 11) Rochester, NY Feb. 8, 2008. [HTML] [PDF]

LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board adopted Reports of Regional Directors or Hearing Officers in the absence of exceptions)

DECISION AND ORDER [remanding proceeding to Regional Director for further appropriate action]

GGNSC Kokomo LLC d/b/a Golden Living Center – Sycamore Village, Kokomo, IN, 25-RD-1509, Feb. 6, 2008
Super-Tek Products, Inc., Woodside, NY, 29-RC-11522, Feb. 6, 2008

Miscellaneous Board Decisions and Orders

ORDER [reversing Regional Director's dismissal and reinstating petition, and remanding case to Regional Director for further appropriate action]

Coca-Cola Enterprises, Inc., Eastern Great Lakes Division, Horseheads, NY, 3-RD-1527, Feb. 7, 2008 (Members Liebman and Schaumber)

Coca-Cola Bottling Co., Sylmar, CA, 31-RD-1564, Feb. 7, 2008 (Members Liebman and Schaumber)

ORDER [affirming Regional Director's dismissal of petition]

Trade Fair Supermarkets, Astoria, NY, 29-RC-11539, Feb. 7, 2008 (Members Liebman and Schaumber)
